

SUBJECT: Requiring TDCJ to develop an emergency response plan for disasters

COMMITTEE: Corrections — committee substitute recommended

VOTE: 6 ayes — Murr, Allen, Bailes, Burrows, Sherman, Slaton

1 nay — White

2 absent — Martinez Fischer, Rodriguez

WITNESSES: For — Jennifer Toon, Coalition of Texans with Disabilities; Karen Munoz, LatinoJustice PRLDEF; Kirsten Ricketts, Restorer Of City Streets; Savannah Eldrige, Statewide Leadership Council; Josh Kemp and Douglas Smith, Texas Criminal Justice Coalition; Maggie Luna; Charlie Malouff; Charles Roberts; Kristina Veit; (*Registered, but did not testify*: Jorge Renaud, LatinoJustice; Joshua Houston, Texas Impact)

Against — None

On — David Gutierrez, Texas Board of Pardons and Paroles; Bryan Collier, Texas Department of Criminal Justice; Michele Deitch; (*Registered, but did not testify*: Bobby Lumpkin, Texas Department of Criminal Justice)

BACKGROUND: It has been reported that the Texas Department of Criminal Justice prison system lacked authority to take certain steps during the COVID-19 pandemic to reduce the population in prisons and mitigate the spread of virus. Some have called for clear direction that would allow the state prison system to act decisively during and respond effectively to future emergencies, such as epidemics or natural disasters.

DIGEST: CSHB 2331 would require the Texas Department of Criminal Justice (TDCJ) to develop an emergency response plan to be implemented when responding to a disaster declared by the governor under the Texas Disaster Act or by the U.S. president, if any part of Texas was named in the federally declared disaster area.

The emergency response plan would have to specify the operating procedures that would be implemented by a correctional facility during a declared disaster, including evacuation procedures for individuals in custody and employees of the facility and guidelines for employees to ensure their safety and well-being. The plan also would have to:

- include provisions to prevent or minimize extended lockdowns or periods of segregation in a correctional facility;
- ensure that individuals in custody could continue to participate in any classes or programs that the Board of Pardons and Paroles had required them to complete before being released on parole;
- ensure that individuals in custody had regular commissary access;
- ensure that TDCJ and each correctional facility had sufficient quantities of personal protective equipment for employees and individuals in custody;
- ensure that individuals in custody were not denied access to medical care, medication, or personal hygiene items; and
- prohibit a correctional facility from suspending in-person visitation, provided that a facility could temporarily institute video visitation.

The bill would establish an advisory board to provide TDCJ with recommendations for the emergency response plan. Recommendations would have to be updated by March 1 annually, and the first set of recommendations would have to be developed and submitted to TDCJ by March 1, 2022. TDCJ would have to develop the emergency plan within 180 days after the advisory board submitted the recommendations.

If TDCJ's response to a declared disaster was inconsistent with the submitted recommendations, the advisory board could obtain any relevant data to identify any consequences of TDCJ's response.

The board would be composed of TDCJ's executive director, the commissioner of public health of the Department of State Health Services, and the following governor-appointed members:

- at least two members, each of whom was a correctional officer employed by TDCJ at the level of sergeant or lower and was a member of an employee organization that mostly consisted of TDCJ employees;
- at least two members who were previously incarcerated;
- two members who were family members of individuals in custody;
- one member who had a background in emergency planning and had previously created an emergency management program for accreditation purposes; and
- one member with a background in public health who was capable of ascertaining vulnerabilities to emerging diseases or infections that could affect TDCJ's operations.

The bill would take effect September 1, 2021.